

TOWN OF ACTON
472 Main Street
Acton, Massachusetts 01720
Telephone (978) 264-9636
Fax (978) 264-9630

Planning Department

INTERDEPARTMENTAL COMMUNICATION

To: Planning Board **Date:** January 26, 2006
From: Kristin K. Alexander, AICP, Assistant Town Planner *KKA*
Subject: Colonial Path Definitive Subdivision (Residential Compound)

Attached is the draft decision for Colonial Path Definitive Subdivision (Residential Compound). Please review it to make sure we captured your thoughts and incorporated your comments into the decision accurately. Below is what we believe were the major issues and your sentiments regarding them.

Issue

Discussion Results

Low Impact Development drainage design

The drainage system as designed is sufficient.

Colonial Path turning radii

The road design is sufficient for emergency vehicles.

Stone road bound in Lot 4 driveway

Use a P.K. nail instead of a stone bound.

Water draining onto Sylvia St.

Modify the drainage system to prevent water from running into Sylvia St., especially during construction, but without installing curbs on Colonial Path.

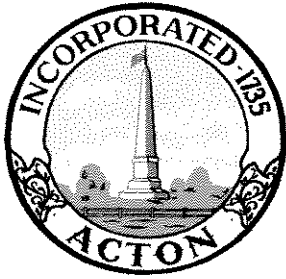
Non-emergency use of Sylvia St. ext.

Install boulders as needed (instead of a gate) on Sylvia St. ext. to discourage vehicle access. The gate for emergency vehicle access can wait until the ARRT is built.

10'-wide utility easement along Colonial Path

Unnecessary since Colonial Path is to remain private.

If you have any questions or changes regarding the draft decision, let staff know. Since the decision deadline is February 27, 2006, the Planning Board should **vote on Colonial Path at the February 14, 2006 meeting**. Thank you.



Planning Board

TOWN OF ACTON
472 Main Street
Acton, Massachusetts 01720
Telephone (978) 264-9636
Fax (978) 264-9630
pb@acton-ma.gov
www.acton-ma.gov

DECISION

06-02

Colonial Path

Definitive Subdivision (Residential Compound)

February 14, 2006

APPROVED with Conditions

Decision of the Acton Planning Board (hereinafter the Board) on the application of Sylvia Fletcher, LLC (hereinafter the Applicant) for property in Acton, Massachusetts, owned by Sylvia Fletcher, LLC of 12 Assabet Crossing, Acton; David Castelline of 135 Upland Road, Concord, MA; and Paul Castelline, of 4 Millwood Circle, Framingham, MA. The property is located at 7 and 11 Sylvia Street and shown on the 2004 Acton Town Atlas map H-3B as parcels 68 and 69 (hereinafter the Site).

This Decision is in response to an Application for Approval of a Definitive Subdivision Plan entitled "Colonial Path Residential Compound," received by the Acton Planning Department on November 29, 2005, pursuant to Massachusetts General Laws, Chapter 41, Section 81-K through 81-GG, and the Acton Subdivision Rules and Regulations (hereinafter the Rules).

The Applicant presented the subdivision proposal to the Board at a public hearing on January 10, 2006. Mr. Richard Harrington of Stamski and McNary, Inc. assisted the Applicant with the presentation. Board members Gregory E. Niemyski (Chairman), Christopher R. Schaffner (Vice Chairman), William F. King, Ruth M. Martin, Edmund R. Starzec, Michael C. Densen, and associate members Bruce Reichlen and Alan R. Mertz were present throughout the hearing. The minutes of the hearing and submissions on which this decision is based upon may be referred to in the Planning Department or the Town Clerk's office at the Acton Town Hall.

1 EXHIBITS

Submitted for the Board's deliberation were the following exhibits:

1.1 Plans:

- A plan entitled "Definitive Subdivision Plan for Colonial Path, a Residential Compound, Acton, Massachusetts" dated November 7, 2005, drawn by Stamski and McNary, Inc. of 80 Harris Street, Acton, MA consisting of six sheets.
- A "Proof Plan" dated 4/29/05 by Stamski and McNary, Inc.

1.2 Supplemental items and documentation required by the Rules consisting of:

- A completed Application for Approval of a Definitive Plan, form DP, dated 11/28/05.
- Filing fee.
- A completed Development Impact Report, form DIR.

- Designer's Certificate.
 - Certified abutters list.
 - Legal Notice of Public Hearing.
 - A list of requested waivers.
 - A letter authorizing Town entry into the Site to complete the street.
 - An authorizing vote of trust, corporation or company. RB – see KA concern w/doc???
 - Copy of the deeds.
 - Drainage and water balance calculations.
- 1.3 Interdepartmental communication received from:
- Acton Assessor's Office, dated 12/13/05.
 - Acton Building Commissioner, dated 12/2/05.
 - Acton Engineering Department, dated 12/20/05.
 - Acton Fire Chief, dated 1/5/06.
 - Acton Health Director, dated 12/2/05.
 - Acton Planning Department, dated 1/6/06.
 - Acton Treasurer's Office, dated 12/1/05.
 - Acton Tree Warden & Municipal Properties Dir., dated 12/2/05.
 - Acton Water Supply District, dated 12/8/05.
- 1.4 Other:
- Letter from Dr. Michael and Tai Summers-McGuinness, 5 Fletcher Court, Acton, MA dated 1/10/06.
 - Decision 05-03, Colonial Path preliminary subdivision approval, dated 5/24/05.

Exhibits 1.1 through 1.2 are referred to herein as the Plan.

2 FINDINGS and CONCLUSIONS

Based upon its review of the exhibits and the record of the proceedings the Board finds and concludes that:

- 2.1 The proposed subdivision is located within the Residence 2 (R-2) zoning district, the Affordable Housing Overlay Sub-district B, and Groundwater Protection District Zone 4.
- 2.2 The Plan shows the proposed division of approximately 2.9 acres into five residential lots, a 330-foot long subdivision street, Colonial Path, which intersects with Sylvia Street.
- 2.3 The proposed uses are allowed on the Site in accordance with the Acton Zoning Bylaw (hereinafter the Bylaw), including all overlay district requirements. The proposed lots comply with the area and frontage requirements of the Bylaw, including all overlay district requirements.
- 2.4 The Plan shows limits of clearing on lots. They are shown for illustrative purposes only. Actual limits of clearing may vary.
- 2.5 The Plan shows typical house and driveway locations on lots. They are shown for illustrative purposes only.
- 2.6 The design of the proposed subdivision street is intended for approval under Section 10 of the Rules - Optional Residential Compound, which implies waivers from the Rules. The subdivision is eligible for consideration as a Residential Compound. The Applicant has demonstrated with a "proof plan" that he could build a subdivision street under the otherwise applicable requirements of the Rules. A Residential Compound is less intrusive to the neighborhood, preserves more of the natural environment of the Site, and helps

preserve the present character of the neighborhood. The Plan, as modified herein, accomplishes these purposes of the Rules' Residential Compounds option.

- 2.7 Ways in Residential Compound subdivisions can be built to lesser design and construction standards than other streets in Acton. They are intended to remain private ways. This requires a legal framework for the maintenance and ownership of the private way. Furthermore, the Board needs assurances that the Town will not be asked to plow, maintain, or accept the private way in the future.
- 2.8 The Board solicited comments from various Town departments and, with the exception of the Conservation Commission, has received such comments, which are listed in Exhibit 1.3 above. The Board considered these comments in its deliberations and made them available to the Applicant. They are restated herein as required plan modifications or conditions as deemed appropriate by the Board.

3 BOARD ACTION

Therefore, subject to and with the benefit of the following waivers, conditions, plan modifications, and limitations, the Board voted on February 14, 2006 to **APPROVE** the definitive subdivision.
[The vote was...]

3.1 WAIVERS

- 3.1.1 Waivers from the Rules are granted to allow the recording and construction of the subdivision as shown on the Plan and as further modified in this Decision.

3.2 PLAN MODIFICATIONS

The Plan shall be revised prior to its endorsement to include the following additional, corrected, or modified information. Except where otherwise provided, all such information shall be subject to the approval of the Board or its designee. Where approvals are required from persons or agencies other than the Board, the Applicant shall be responsible for providing evidence of such approvals to the Board or its designee.

- 3.2.1 On the Record Plan, change the owners from Dominic and Alice Castelline to David Castelline and Paul Castelline.
- 3.2.2 Add a Planning Board signature space to the Construction Details sheet (sheet 5 of 6).
- 3.2.3 Add a note to the Plan making reference to the decision, any Restrictive Covenants under MGL Chapter 41, Section 81-U, or any amendments thereto, and any conditions required by the Board of Health.
- 3.2.4 On the Plan, show any existing or proposed underground structures within 150 feet north of the perimeter of the subdivision.
- 3.2.5 On the Plan, show the Sylvia Street extension against the northerly edge of the Sylvia Street layout (to allow the option for future parking on the southerly edge) and include language and/or details showing that the extension will be prepared and paved to street construction standards in order to accommodate emergency vehicles.
- 3.2.6 Specify on the Plan that the shed on the rear property line of Lot 3 will be razed.
- 3.2.7 Label each easement on the Plan with a different letter.
- 3.2.8 Add the "maintain existing trees along Sylvia Street" note to the Site Development and Grading Plan (sheet 3 of 6) and the Plan and Profile (sheet 4 of 6).

- 3.2.9 Submit a list of mortgage holders for the Site.
- 3.2.10 Submit a private way maintenance agreement that will assign the responsibility for snow and ice removal and for general maintenance to the owners of the subdivision Lots 2-5, and Lot 1 if included. Lot 1 may be included now or its future inclusion shall be allowed in the agreement.
- 3.2.11 Submit a private way covenant, enforceable by the Town of Acton, declaring that Colonial Path shall remain a private way and serve not more than four residential lots; that the owners of Lots 2-5 Colonial Path shall be jointly responsible for the removal of snow and ice in Colonial Path; that the owners of Lots 2-5 Colonial Path shall be jointly responsible for any general maintenance and upkeep of Colonial Path and any associated drainage structures and other utilities; that the owners of Lots 2-5 Colonial Path shall not petition the Town to accept Colonial Path as a public way; and that the owners of Lots 2-5 Colonial Path shall not petition the Town to provide snow and ice removal services or any other maintenance of Colonial Path. Add Lot 1 to all of the above, if included.
- 3.2.12 The Plan shall be modified to address any remaining concerns raised by the Acton Water Supply District (AWD). AWD approval of the Plan shall be submitted in writing prior to Plan endorsement.
- 3.2.13 All fire hydrants and fire alarm call boxes shall be installed in accordance with the specifications of the Acton Fire Department (AFD). AFD approval of the Plan shall be submitted in writing prior to Plan endorsement.
- 3.2.14 Add a Plan note stating that houses and driveways are shown for illustrative purposes only.
- 3.2.15 Add a Plan note stating that any limits of clearing shown on the Plan are not required under the subdivision approval, and that any tree plantings or landscaping shown on the plan are not required under this subdivision approval except for maintaining the trees along Sylvia Street as noted on Plan sheet 6. Any limits of clearing and landscaping required by another entity having jurisdiction shall be so noted.
- 3.2.16 Re-assign the street addresses on Colonial Path so that the odd street numbers are located on the west side and the even street numbers are located on the east side of the road.
- 3.2.17 Revise General Note 24 on the Erosion and Sedimentation Control Plan and Details Sheet (sheet 6 of 6) to include the following notes for the proposed stone bounds:
- The bounds shall be a six (6) inch square by four (4) feet long piece of granite set flush with the finished grade.
 - No permanent monuments shall be installed until all construction that would destroy or disturb the monuments is completed.
 - The Applicant shall submit a certificate (Form CB) by a registered land surveyor at the subdivider's expense, indicating that these permanent monuments are in place and are accurately located, including evidence that the bound traverse had a ratio "error of closure" of 1:15,000 or better.
- 3.2.18 Show the existing and proposed survey monumentation (i.e. stone bounds, iron rods, and P.K. nails) on the Site Development and Grading Plan (sheet 3 of 6) and the Plan and Profile Sheet (sheet 4 of 6).
- 3.2.19 Add notes to the Plan requiring existing survey monuments to be marked in the field prior to construction.

- 3.2.20 Add a note to the Plan stating that if existing survey markers are damaged or destroyed during construction, the applicant shall be required to hire a registered land surveyor to reset the monuments and certify the new locations.
- 3.2.21 Show the road bound located within the proposed driveway of Lot 4 as a P.K. nail.
- 3.2.22 Change General Note 14 on the Erosion and Sedimentation Control Plan and Details Sheet to state: "At the conclusion of construction, the following documents shall be required: (a) an as-built plan, showing all pavement, drainage, utilities, and other improvements within or related to the street, and survey monuments for the entire subdivision, and (b) a letter from the registered engineer certifying that the subdivision has been built in compliance with the approved Plan."
- 3.2.23 On the Plan, add spot grades along Sylvia Street to show that a puddle will not be created along the road as a result of the grading for the subdivision.
- 3.2.24 On the Plan, modify the Erosion and Sedimentation Control system to better direct the pavement runoff into the catch basins and prevent erosion on the west side of Colonial Path. The purpose is to prevent runoff from discharging directly onto Sylvia Street.
- 3.2.25 Show on the Plan an inlet such as a catch basin or a drop inlet within the layout of Sylvia Street to allow the runoff on Sylvia Street to enter the existing 10-inch drainpipe under the road. Label the existing 10-inch pipe to be replaced and realigned so that the end of the pipe by Colonial Path is placed in a location better suited to accommodate an inlet structure on Sylvia Street.
- 3.2.26 Identify on the Plan the estimated elevation of high groundwater in the vicinity of the drainage basin on Lot 5.
- 3.2.27 Remove the filter fabric shown on the bottom of the subsurface recharge area in the Subsurface Drainage Area Detail on the Plan and Profile (sheet 4 of 6).
- 3.2.28 Show the cleanouts for the subsurface recharge area on the Site Development & Grading Plan (sheet 3 of 6) and the Subsurface Drainage Area Detail on the Plan and Profile Sheet (sheet 4 of 6).
- 3.2.29 On the Erosion and Sedimentation Control Plan and Details Sheet (sheet 6 of 6), revise the description in the Drainage System Operation and Maintenance Plan for inspecting and maintaining the subsurface recharge area in the proposed turnaround so it is clear to homeowners (not familiar with drainage systems) how to determine whether the system is working properly. The revisions shall be subject to approval by the Board its designee.
- 3.2.30 Include in the private way maintenance agreement the Drainage System Operation and Maintenance Plan that is shown on the Erosion and Sedimentation Control Plan and Details Sheet (sheet 6 of 6), as revised.
- 3.2.31 Indicate in the Drainage System Operation and Maintenance Plan and the private way maintenance agreement that the Town will only be responsible for the future maintenance of the existing 10-inch diameter drainpipe and the new drain inlet for Sylvia Street and that the remainder of the drainage system will be the joint responsibility of the future homeowners on Colonial Path.
- 3.2.32 On the Plan, change the "Grading and Utility Easement" label (adjacent to Lot 3) on Lot 4 to read "Grading, Drainage, and Utility Easement."
- 3.2.33 Add the following notes about the proposed street name sign on the Plan:
- The street name sign shall be set in concrete and be of the same type that exists in the Town.

- The sign shall be erected prior to construction of the first house on the street.
 - The signpost shall have affixed thereto a sign designating the street as a private way.
- 3.2.34 Place boulders or other no-maintenance markers as necessary at the end of Sylvia Street on the 12-foot wide paved emergency vehicle access to prevent vehicle access onto the railroad property.
- 3.2.35 Add notes to the Plan describing what will happen to the existing utility pole and the overhead wires located on Lot 5.
- 3.2.36 Place a note on the Plan to clearly state that the existing gravel driveway shall be removed and stabilized with vegetation.
- 3.2.37 Unless directed otherwise by this decision, the definitive plan shall be modified to comply with all requirements of the Rules, and shall address all departmental comments received by the Board in a manner that resolves any concerns raised therein to the satisfaction of the Board.

3.3 CONDITIONS

The following conditions shall be binding upon the Applicant and its successors and assigns. Failure to adhere to the following conditions shall be reason to rescind this subdivision approval pursuant to MGL Ch. 41, S. 81-W. The Town of Acton may elect to enforce compliance with this decision using any and all powers available to it under the law.

- 3.3.1 Colonial Path shall remain a private way. It shall not be accepted as a public way, nor shall the Applicant or the owners of Lots 2-5, and Lot 1, if included, file a petition with the Town to accept it as a public way.
- 3.3.2 Colonial Path in its entirety shall be maintained by the owners of Lots 2-5, and Lot 1, if included, in accordance with the private way maintenance agreement. This shall include the removal of snow and ice. The Applicant and the owners of Lots 2-5, and Lot 1, if included, shall not petition the Town to provide snow and ice removal services in Colonial Path or to provide any other maintenance and upkeep of Colonial Path.
- 3.3.3 Colonial Path shall not serve more than 4 residential lots, plus Lot 1, if included.
- 3.3.4 The Applicant shall be diligent in complying with the erosion and sediment control plan. The Applicant shall not cause or permit the runoff of water or erosion that results in the flooding or siltation of any street, way or drainage facility owned or maintained by the Town. If such runoff or erosion occurs, the Board may order the immediate cessation of any excavation, construction and building activities until the conditions that caused the runoff or erosion have been corrected.
- 3.3.5 As required under Massachusetts General Laws, Ch. 60, S. 23, the Plan approved hereunder shall not be recorded with the Middlesex South District Registry of Deeds or the Land Court unless it is accompanied by a municipal lien certificate, indicating that all taxes, assessments, and charges then assessed against the land shown on the Plan have been paid in full. If not paid at the time of endorsement of the Plan, the Board will add a Plan note to remind the Registry of Deeds or the Land Court of this legal requirement.
- 3.3.6 Prior to endorsement of the Plan, the Applicant shall provide the Board with a performance guarantee in accordance with Section 6 of the Rules.

- 3.3.7 No work on the Site shall begin prior to the endorsement and recording of the Plan, except for renovations of the house on lot 1, including the septic system replacement if necessary, and except for razing the existing dwelling on lot 5.
- 3.3.8 All work on the Site shall be conducted in accordance with the Rules, except as waived, and the terms of this approval, and shall conform with and be limited to the improvements shown on the endorsed Plan.
- 3.3.9 The installation of water service lines shall be made in compliance with requirements of the Acton Water Supply District.
- 3.3.10 Upon completion of all work as shown on the Plan, and before the final release of any performance guarantee, the Applicant shall submit an as-built plan showing the road pavement, drainage, utilities, and other improvements within or related to the street, and survey monuments for the entire Subdivision; a surveyor's bound certification; and a certification from a registered engineer that the work has been completed according to the approved Plan.
- 3.3.11 This Decision, the endorsed Record Plan, the Private Way Covenant and Maintenance Agreement, and the Restrictive Covenant if any, shall be recorded at the Middlesex South District Registry of Deeds or the Land Court prior to the issuance of a building permit on the Site.

3.4 LIMITATIONS

The authority granted to the Applicant under this approval is limited as follows:

- 3.4.1 The foregoing required modifications and conditions have been stated for the purpose of emphasizing their importance, but are not intended to be all inclusive or to negate the remainder of the Rules and other applicable laws and regulations.
- 3.4.2 This subdivision approval applies only to the Site identified in this decision and to the activity as shown on the Plan.
- 3.4.3 Other approvals or permits required by law and other governmental boards, agencies or bodies having jurisdiction shall not be assumed or implied by this decision.
- 3.4.4 This subdivision approval shall expire if not endorsed on the Plan within one year from the date that this decision has been filed with the Town Clerk. It shall also expire, if street construction and installation of services is not completed within eight years from the date that this decision has been filed with the Town Clerk. A request to extend said time limits must be made in writing to the Board at least 30 days prior to said expiration date. The Board herewith reserves its rights and powers to grant or deny such extension, to issue any appropriate changes to this decision and to require any appropriate modifications of the Plan.
- 3.4.5 The Board hereby reserves its right and power to modify or amend the Plan and the terms and conditions of this decision with or without a public hearing upon the request of the Applicant, his designees or assigns, or upon its own motion.

4 APPEALS

Appeals, if any, shall be made pursuant to MGL, Ch. 41, S. 81-BB and shall be filed within 20 days after the date of filing this Decision with the Town Clerk.

5 CERTIFICATE OF ACTION

This document stating the Decision of the Board shall serve as the Certificate of the Board's Action to be filed with the Town Clerk pursuant to MGL, Ch. 41, S. 81-U.

Signed on behalf of the Acton Planning Board

Roland Bartl, AICP, Town Planner
for the Town of Acton Planning Board

This is to certify that the 20-day appeal period on this decision has passed and there have been no appeals made to this office.

Eva Bowen, Town Clerk

Date

Copies furnished:

Applicant -
certified mail #
Town Clerk
Fire Chief
Owners

Building Commissioner
Engineering Administrator
Conservation Administrator
Police Chief
Assistant Assessor

Health Director
Municipal Properties Director
Town Manager
Acton Water District

I:\planning\planning board\decisions\06-02 colonial path def subd.doc